



## Senate

General Assembly

**File No. 339**

January Session, 2013

Substitute Senate Bill No. 852

*Senate, April 4, 2013*

The Committee on Human Services reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING NURSING HOME OVERSIGHT AND COMMUNITY-BASED PLACEMENTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-339 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) There is established a Nursing Home Financial Advisory  
4 Committee to examine the financial solvency of nursing homes on an  
5 ongoing basis and to support the Departments of Social Services and  
6 Public Health in their mission to provide oversight to the nursing  
7 home industry on issues concerning the financial solvency of and  
8 quality of care provided by nursing homes. The committee shall  
9 convene not later than August 1, 2013, and consist of the following  
10 members: The Commissioner of Social Services, or [his] the  
11 commissioner's designee; the Commissioner of Public Health, or [his]  
12 the commissioner's designee; the Secretary of the Office of Policy and  
13 Management, or [his] the secretary's designee; the executive director of  
14 the Connecticut Health and Education Facilities Authority, or [his] the

15 director's designee; [the president of LeadingAge Connecticut, Inc. or  
16 the president's designee; and the executive director of the Connecticut  
17 Association of Health Care Facilities, or the executive director's  
18 designee] the Long-Term Care Ombudsman; and two members  
19 appointed by the Governor, one of whom shall be a representative of  
20 not-for-profit nursing homes and one of whom shall be a  
21 representative of for-profit nursing homes. In addition, the Labor  
22 Commissioner may appoint a nonvoting member to the committee. The  
23 Commissioner of Social Services [or his designee] and the  
24 Commissioner of Public Health, or [his designee] their designees shall  
25 be the chairpersons of the committee.

26 (b) The committee, upon receipt of a report relative to the financial  
27 solvency of and quality of care provided by nursing homes in the state,  
28 shall recommend appropriate action for improving the financial  
29 condition of any nursing home that [is in financial distress] may have  
30 insufficient resources to meet its operating costs to the Commissioner  
31 of Social Services and the Commissioner of Public Health. The  
32 Commissioner of Social Services shall submit quarterly reports to the  
33 committee concerning pending nursing home requests for interim rate  
34 increases. Such reports shall, without identifying any requesting  
35 facility by name, list the amount of each increase requested, the reason  
36 for the request and the rate that will result if the request is granted.

37 (c) Not later than January 1, [2010] 2014, and annually thereafter, the  
38 committee shall submit a report on its activities to the joint standing  
39 committees of the General Assembly having cognizance of matters  
40 relating to aging, appropriations and the budgets of state agencies,  
41 human services and public health, [and to the select committee of the  
42 General Assembly having cognizance of matters relating to aging,] in  
43 accordance with the provisions of section 11-4a.

44 (d) Not later than [January 1, 2010] October 1, 2013, and quarterly  
45 thereafter, the committee shall meet with the chairpersons and ranking  
46 members of the joint standing committees of the General Assembly  
47 having cognizance of matters relating to appropriations and the

48 budgets of state agencies, human services and public health, and the  
49 Long-Term Care Ombudsman to discuss activities of the committee  
50 relating to the financial solvency of and quality of care provided by  
51 nursing homes. Said joint standing committee chairpersons and  
52 ranking members may request that the committee established  
53 pursuant to subsection (a) of this section study and make  
54 recommendations concerning any issue related to the financial  
55 solvency of and quality of care provided by nursing homes.

56 Sec. 2. Subsection (b) of section 17b-352 of the general statutes is  
57 repealed and the following is substituted in lieu thereof (*Effective from*  
58 *passage*):

59 (b) Any facility which intends to (1) transfer all or part of its  
60 ownership or control prior to being initially licensed; (2) introduce any  
61 additional function or service into its program of care or expand an  
62 existing function or service; or (3) terminate a service or decrease  
63 substantially its total bed capacity, shall submit a complete request for  
64 permission to implement such transfer, addition, expansion, increase,  
65 termination or decrease with such information as the department  
66 requires to the Department of Social Services, provided no permission  
67 or request for permission to close a facility is required when a facility  
68 in receivership is closed by order of the Superior Court pursuant to  
69 section 19a-545. The Commissioner of Social Services and the Office of  
70 the Long-Term Care Ombudsman [pursuant to section 17b-400] shall  
71 be notified by the facility [of any proposed actions pursuant to this  
72 subsection at the same time the request for permission is submitted to  
73 the department and when a facility in receivership is closed by order of  
74 the Superior Court pursuant to section 19a-545] in writing at least  
75 thirty days prior to the facility submitting a letter of intent to the  
76 department for a certificate of need application pursuant to subsection  
77 (c) of this section. Upon such notice, any such facility shall allow the  
78 Department of Social Services to evaluate each resident of the facility  
79 to determine which residents may be eligible to transition to a  
80 community-based setting pursuant to section 17b-369.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	17b-339
Sec. 2	<i>from passage</i>	17b-352(b)

***Statement of Legislative Commissioners:***

In section 1(c), "January 1, 2010" was changed to "January 1, 2014" for consistency with other provisions of the section.

**HS**            *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill is not anticipated to result in a fiscal impact to the state. It adds a notification requirement for certain facilities and allows, but does not require, the Department of Social Services (DSS) to evaluate their residents for potential transition to the Money Follows the Person (MFP) program.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis****sSB 852*****AN ACT CONCERNING NURSING HOME OVERSIGHT AND COMMUNITY-BASED PLACEMENTS.*****SUMMARY:**

This bill requires certain facilities (i.e., nursing homes, rest homes, residential care homes, and intermediate care facilities for intellectually disabled people) to (1) notify the Department of Social Services (DSS) and the long-term care ombudsman (LTCO) in writing at least 30 days before submitting a letter of intent to DSS for a certificate of need (CON) application and (2) after providing such notice, allow DSS to evaluate each resident of the facility to determine which ones may be eligible to transition to a community-based setting through the Money Follows the Person program (see BACKGROUND).

The bill changes the Nursing Home Financial Advisory Committee membership and requires it to convene by August 1, 2013. It also requires the committee to:

1. recommend appropriate action to the DSS and Public Health (DPH) commissioners for improving the financial condition of any nursing home that may have insufficient resources to meet its operating costs;
2. by October 1, 2013, begin holding already required quarterly meetings with the Appropriations, Human Services, and Public Health committee chairpersons and ranking members; and
3. by January 1, 2014, begin submitting already required annual reports on its activities to the Aging, Appropriations, Human Services, and Public Health committees.

EFFECTIVE DATE: Upon passage

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**LETTER OF INTENT NOTIFICATION AND MONEY FOLLOWS THE PERSON EVALUATION**

By law, a facility must submit a request for permission and required information to DSS when it intends to (1) transfer all or part ownership or control of the facility before it is initially licensed, (2) introduce a function or service into its program of care or expand an existing one, or (3) terminate a service or substantially decrease its total bed capacity. As part of this process, the facility must first request a CON application from DSS through a letter of intent.

The bill eliminates requirements that a facility (1) notify the LTCO when it requests such permission from DSS and (2) in receivership notify the LTCO when it is closed by Superior Court order. Instead, it requires facilities to notify the DSS commissioner and the LTCO in writing at least 30 days before submitting a letter of intent to DSS for a CON application. Once notified, the facility must allow DSS to evaluate each resident for Money Follows the Person program eligibility (see BACKGROUND). (The bill does not require DSS to perform such evaluations or state a timeframe for completing the evaluation.)

**NURSING HOME ADVISORY COMMITTEE**

The bill requires the Nursing Home Financial Advisory Committee to convene by August 1, 2013. It retains on the committee one representative each from the for-profit and nonprofit nursing home industry but removes the president of Leading Age Connecticut, Inc. and the executive director of Connecticut Association of Health Care Facilities or their designees. It also adds the LTCO to the committee and it allows the labor commissioner to appoint a non-voting member. The governor appoints the nursing home industry representatives.

By law, the committee, when it receives a report relating to nursing homes' financial solvency and quality of care, must recommend appropriate action to the DSS and DPH commissioners to improve the financial condition of certain nursing homes. Currently, the committee must make such recommendations for any nursing home in financial

distress. The bill instead requires the committee to make such recommendations for any nursing home that may have insufficient resources to meet its operating costs.

The bill allows the chairpersons and ranking members of the Appropriations, Human Services, and Public Health committees to ask the advisory committee to study and make recommendations on any issue related to nursing homes' financial solvency and quality of care.

## **BACKGROUND**

### ***Money Follows the Person (MFP)***

MFP is a federal demonstration program that allows states to move people out of nursing homes or other institutional settings into less-restrictive, community-based settings. The recent federal health care reform law extends the demonstration period to 2016.

To qualify, an individual must have lived in a nursing home or other institution for at least 90 days and, if not for the community-based services provided under the demonstration, would have to remain in the institution. For the first 12 months the participant lives in the community, the federal government pays an enhanced federal Medicaid match. (In Connecticut, the normal Medicaid match is 50%, and the enhanced demonstration match is up to 75%).

## **COMMITTEE ACTION**

Human Services Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/21/2013)